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9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON

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13 ANDREW M. RICHMOND, a
14 Washington Resident,

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16 Plaintiff,

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18 v.

19 SPOKANE COUNTY SHERIFF'S
20 OFFICE, a division of Spokane County,
21 Washington (a Washington State
22 County),
23

24 Defendant.
25
26

No.

COMPLAINT

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28 “[There is] a well-documented [] code of silence, *the thin blue line*, which
29 discourages officers from reporting improper and unlawful conduct by fellow
30 officers. Accordingly, accountability is challenging and mistrust of law enforcement
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COMPLAINT: 1

1 abounds. There is much work to be done in changing the culture of police
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3 departments”¹ “[T]here is an “undercurrent” of prejudice or bigotry that must
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5 be addressed.”²

6 This case involves just that - a Black law enforcement officer that reported
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8 racist comments and actions by a white law enforcement officer i.e., breached the
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10 code of silence aka “the thin blue line” by reporting a fellow officer. The white
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12 officer *was* terminated by their shared County employer. Yet, as a result of lodging
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14 the complaint about racism the Black officer faced further discrimination and
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16 retaliation to the point that his work environment became so intolerable that he had
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18 to quit and take a position with a significant cut in pay and rank. The Black officer’s
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20 County employer failed to protect him against workplace discrimination and
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22 retaliation in violation of state and federal laws. Accordingly, there *must* be action
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24 taken to eliminate the code of silence - “the thin blue line” - and it needs to start now.

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26 ¹ Hodges, Ann C. and Justin Pugh, “Crossing the Thin Blue Line: Protecting Law Enforcement
27 Officers Who Blow the Whistle.” *UC Davis Law Review*, Vol 52:1 (2018) at 1.

28 ² Quoting Kurtis Robinson, president of the Spokane chapter of the NAACP and The Spokesman
29 Review. See [https://www.spokesman.com/stories/2019/jun/13/spokane-county-sheriffs-sergeant-](https://www.spokesman.com/stories/2019/jun/13/spokane-county-sheriffs-sergeant-fired-for-racial/)
30 [fired-for-racial-/](https://www.spokesman.com/stories/2019/jun/13/spokane-county-sheriffs-sergeant-fired-for-racial/) “Spokane County sheriff’s sergeant fired for racial slur, sexual harassment, talk
31 of killing black people” publication date: June 13, 2019 (last visited March 30, 2021).

1 COMES NOW Plaintiff Andrew M. Richmond (hereafter, “Plaintiff” or
2 “Richmond”), by and through his counsel of record Heather C. Barden of Barden &
3 Barden, and hereby alleges and complains against Defendant Spokane County
4 Sheriff’s Department, as follows:
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8 **PARTIES, JURISDICTION, AND VENUE**
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10 1. Plaintiff is an individual who at all times relevant hereto was a resident
11 of Spokane County, Washington.
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13 2. Defendant Spokane County Sheriff’s Office (“SCSO”) is a division of
14 the municipality of Spokane County, Washington.
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16 3. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(b)(1) & (2)
17 because all Defendants are residents of Spokane County, Washington and all acts
18 alleged herein occurred in Spokane County, Washington.
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20 4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §1331, §1343,
21 and §1367 as the chief complaints arise under Title VII of the Civil Rights Act of
22 1964 (“Title VII”), 42 U.S.C. §2000e, *et seq.* and the Washington Law Against
23 Discrimination (“WLAD”), RCW 49.60, *et seq.* for racial discrimination and
24 retaliation for engaging in a protected activity.
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RELEVANT FACTS

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3 5. Richmond is a Black man who was formerly employed by the Spokane
4 Sheriff's Department at the time the actions alleged herein occurred, Richmond was
5 employed as a Deputy Sheriff. At all times during Richmond's employment with the
6 Sheriff's Department, he was one of two Black officers employed by the Sheriff's
7 Department.
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12 6. On information and belief, the SCSO has approximately 220 employed
13 officers. Spokane County has an approximate population of 500,000 people as of
14 2015 United States Census Bureau Data. Only 2% of that population is Black and/or
15 African-American. Only 12.9% of the remaining population is non-White.
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19 7. On or about December 22, 2016, Richmond was on duty. He responded
20 to a call with fellow Deputy Tyler Kullman. After responding to the incident,
21 Richmond and Kullman "road sided" their vehicles to have a discussion i.e., parking
22 so that they could speak to each other with the driver's side windows directly across
23 from one another. During this discussion, Richmond heard a phone conversation
24 between Kullman and now-former Sergeant Jeffrey Thurman during which Thurman
25 asked Kullman if Kullman was ready to "kill some niggers." Kullman and Thurman
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1 are white. Richmond does not know if the “call” was a voicemail, a live phone call,
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3 or a conversation sent via a smartphone application (“app”). He does know exactly
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5 what he heard.

6 8. During or shortly after Kullman received the live or recorded message
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8 from Thurman, Thurman was told that Richmond was present and heard Thurman’s
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10 abhorrent comments. Shortly thereafter, Thurman approached Richmond and told
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12 Richmond that Thurman had only been referring to “inner city” Black people who
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14 “riot and loot.” Spokane County does not have an inner city. The only incidences of
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16 peaceful protest and “looting” that have occurred at any recent time in Spokane
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18 County occurred well after Thurman’s comments – in 2020 during part of the
19
20 worldwide Black Lives Matter protests in response to the officer-involved death of
21
22 George Floyd in Minnesota.

23 9. Richmond, shaken by Thurman’s comments, was not quite sure what to
24
25 do. Thurman at the time was a beloved local officer and handler of well-known K-9
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27 Laslo and had been employed by the SCSO since 2001. On multiple occasions
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29 between 2016 and 2018, Richmond reported Thurman’s racist comments to SCSO
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31 Sergeants Justin Elliott, Damon Simmons, and Andrew Buell. Simmons was the only

1 other Black officer employed by the SCSO. All three men were Richmond's
2 superiors in the chain of command. In violation of SCSO policy, none of those
3 officers reported Thurman's comments. At no time did Deputy Kullman report
4 Thurman's comments to anyone.
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8 10. On or about May 2019, Richmond made a formal complaint to his union
9 about Thurman's conduct and the discrimination and retaliation related to his
10 application and interview for the Air Support Unit ("ASU"). In addition to
11 Thurman's "kill some niggers" comment, Richmond reported other retaliatory
12 actions taken against Richmond from the date he overheard the comments to the date
13 of his formal complaint.
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19 11. Before the formal complaint was filed with the union, Richmond
20 reported the ASU issue to then-Union President Kevin Richey. Richmond also told
21 Richey about Thurman's racist comments. Richey contacted then-Undersheriff
22 David Ellis, who oversaw the ASU selection process. Ellis told Richey that
23 Richmond had "too many" other specialty positions, so he did not receive the ASU
24 appointment. Ellis' statement was untrue pretext. At the time, Richmond had zero
25 specialty positions. Ellis told Richey that Thurman ultimately got to decide who
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1 received the ASU position. On information and belief, Ellis and Thurman had, and
2 have a close personal relationship. In response to Richmond's complaint, an Internal
3 Affairs ("IA") investigation was started.
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6 12. During the course of the IA investigation, multiple SCSO officers were
7 interviewed. Kullman made clear to IA investigators that he had a "very close,
8 personal relationship" with Thurman. Kullman "could not recall" any specific
9 incidents, but told IA that Thurman regularly used the word "nigger" both in anger
10 and in jest. At no time did Kullman ever report those incidents. Kullman reported to
11 IA that Thurman often "talked about killing African Americans" and calling Black
12 people "niggers" when discussing the Black Lives Matter movement. Deputy
13 Veronica Van Patten reported to IA investigators that she had overheard Thurman
14 use the word "nigger" in reference to Black men on multiple occasions while on the
15 job. Van Patten also reported incidents of on-the-job sexual harassment against
16 another female Deputy by Thurman during this IA investigation.
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19 13. Richmond was interviewed by IA Investigator Sergeant Hines on or
20 about May 8, 2019. Richmond explicitly told Hines that he was the subject of racial
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1 discrimination and retaliation related to his application and interview for the Air
2 Support Unit (“ASU”) after the Thurman-Kullman incident.

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5 14. Richmond informed Hines that one of the officers awarded the position,
6 Deputy Krystal Bitzer, told Richmond that her ASU interview was informal,
7 describing it as “BS’ing with the other board members” making the hiring decision.
8 She told Richmond that she was asked “no real questions.”³ In fact, she was given
9 the answers in advance of her interview to potential questions by “ASU members.”
10 In contrast, Richmond was asked a series of hard questions. Thurman was involved
11 in the ASU interview process and was made a part of the ASU team during the
12 interviews.
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19 15. Had Richmond received the ASU position; he would have received a
20 substantial amount of overtime and training. The increased income and training
21 would have amounted to a promotion. Richmond was not formally notified that he
22 was not selected for the ASU position. Richmond was instead told in person by
23 Sergeant Patrick Bloomer that SCSO “command staff” prevented Richmond from
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30 ³ Bitzer, like Van Patten, had reported sexually harassing comments made to her by Thurman,
31 including words to the effect that she would return from a work trip “pregnant” after having to
“share a room” with Thurman – her supervisor.

1 receiving the ASU position for an “unknown” reason. Bloomer told Richmond to
2 “keep his mouth shut” about not getting selected. It is SCSO practice to notify
3 interviewees by email or a phone call of non-selection; interviewees are never
4 notified in a closed-door setting. In violation of SCSO policies, the score sheets from
5 the ASU interviews were not preserved. Bloomer told Richmond that if he
6 complained, he would be passed over in the future. Bloomer has denied this
7 conversation despite public records corroborating Richmond’s claim.
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14 16. Elected Sheriff Ozzie Knezovich refused to allow Ellis to be
15 interviewed as part of the IA investigation into Thurman’s conduct. Hines personally
16 told Richmond that Knezovich refused to allow Ellis to be interviewed. Shortly
17 thereafter, Knezovich personally terminated the IA investigation. Knezovich told
18 Hines words to the effect that the investigation was "dead."
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23 17. Knezovich deemed Richmond’s retaliation complaint related to the
24 ASU position “unfounded.” Knezovich has since testified that he had no reason to
25 doubt that Richmond was telling the truth about Thurman’s racist comments. On
26 June 12, 2019, Richmond personally told Knezovich that Ellis needed to be
27 interviewed, raising concerns about Ellis’ relationship with Thurman.
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1 18. On or about June 13, 2019, Thurman was advised that he was being
2 terminated as a result of the IA investigation. Thurman refused to participate in his
3 own *Loudermill* hearing in response to the proposed termination.
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6 19. Knezovich held a press conference on or about June 13, 2019 regarding
7 Thurman's termination. The press conference was covered by *The Spokesman-*
8 *Review* in an article released the same date online, authored by Chad Sokol. During
9 the press conference, Knezovich stated that Thurman's "type of behavior will never
10 be tolerated...It's reprehensible, and any deputy who dishonors this community and
11 his badge this way, they will not work for the Spokane County Sheriff's Office." In
12 the same interview, Knezovich told the paper that the supervisors Richmond had
13 reported Thurman's comments to "should have brought it forward...These things
14 have to be sent up the chain, and they have to be dealt with."⁴ Importantly,
15 Knezovich said that Thurman refused to accept responsibility, instead, he "mitigated
16 and blamed people, blamed victims." A press release made on or about the time of
17 Thurman's termination stated that Knezovich initiated the IA investigation, which is
18 untrue.
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⁴ Knezovich also affirmed the "coming back pregnant" comments in this interview regarding Bitzer.

1 20. Unfortunately, Knezovich failed to protect Richmond after Thurman
2 was terminated. Shortly after the press conference, members of the community
3 began making public accusations against Thurman's complainant, Richmond. On
4 the same date, June 13, 2019, SCSO circulated a memo that was read out loud to all
5 SCSO employees in which Richmond was identified by name as the complainant.
6 Richmond was in a meeting with approximately 25 SCSO deputies on that day when
7 Lieutenant Mike Zollars read the memo aloud and named Richmond. Other deputies
8 told Richmond that they had been read the memo at similar meetings. During the
9 course of the IA investigation, Richmond had been repeatedly assured that his name
10 would not be released. Richmond immediately began being questioned by co-
11 workers as to why he "randomly" reported Thurman.
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21 21. On or about June 20, 2019, Richmond was informed that ASU members
22 had listened to the audio recordings of the IA interviews. Richmond was also told
23 that his own interview was discussed in a group setting. Richmond reported this to
24 Hines, who advised that the Thurman investigation was "closed" – failing to account
25 for the new, retaliatory behavior and improper review of a completed IA
26 investigation.
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1 22. Shortly thereafter, Richmond urged Richey to request that the IA
2 investigation be continued, at least as to the ASU allegations. Richey told Richmond
3 that Lieutenant Steve Jones had been assigned to the ASU investigation. When
4 asked, Jones told Richmond that he “had no clue” what Richmond meant about the
5 ASU investigation.
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10 23. After the investigation, Richmond learned that Spokane Valley Chief
11 Mark Werner and Spokane Valley Commander Matt Lyons both had ongoing, close
12 relationships with Thurman. Werner and Lyons, in retaliation, spread rumors about
13 Richmond to SCSO staff. Lyons vocally supported Thurman’s use of the word
14 “nigger,” and Lyons made clear that the comment about “killing niggers” was not a
15 policy violation in his view. Chief Werner began circulating a false rumor that
16 Richmond was having a sexual relationship with Van Patten, one of Richmond’s
17 former recruits. Richmond was employed at the Spokane Valley office at this time
18 and Lyons and Werner were in Richmond’s direct chain of command.
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26 24. On or about July 8, 2019, Knezovich called Richmond to discuss
27 accusations made against Richmond by Chief Werner. Knezovich’s call violated
28 SCSO policy, violated Richmond’s rights to an IA investigation of any accusation,
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1 and violated Richmond's rights as a union member. During this call, Richmond told
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3 Knezovich about Lyons' and Werner's comments disregarding the use of "nigger"
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5 as a policy violation. Richmond also told Knezovich that he did not feel comfortable
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7 working for Lyons. Knezovich decided to move and isolate Richmond to the
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9 downtown SCSO office. The move was not voluntary – it was in response to the
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11 retaliatory, hostile work environment created by Richmond's superiors. No
12
13 disciplinary actions were ever taken against Lyons or Werner. Since the termination
14
15 of Thurman Richmond has had a target on his back.

16 25. Thurman also reported information to current SCSO personnel after his
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18 termination in an attempt to discredit and intimidate Richmond and to cause
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20 Richmond emotional distress. By way of example, Richmond obtained text
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22 messages among Thurman, Bloomer, and Kullman, as well as other unidentified
23
24 SCSO personnel. One person on the text group stated, "now everyone is being
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26 gay...wait...is that wrong?" The message was in response to Thurman saying, "Let
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28 me clarify not brothers like a racial thing but brother by blood just to be clear"
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30 "because God forbid, we say anything nowadays." A number of the SCSO personnel
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on the text thread used their work phones to participate in these communications.

1 26. On or about July 29, 2019 Richmond quit his SCSO job due to the
2 ongoing retaliation. He took a substantial pay cut and lost his rank by moving to a
3 probationary position with the Spokane Police Department to leave the toxic SCSO
4 culture.
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8 27. The rumors from the SCSO continue to this day. In or around May
9 2020, Deputy Jeffrey Getchell made comments in a group setting during a hostage
10 negotiation training, suggesting that Richmond got Thurman fired. Getchell alleged
11 that Richmond had also engaged in an affair in his personal life. The SCSO and the
12 County have done nothing to stop the damage to Richmond's reputation.
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17 **NOTICE OF RIGHT TO SUE**
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19 28. Plaintiff has filed a timely charge of discrimination and retaliation with
20 the Equal Employment Opportunity Commission and brings this action within ninety
21 (90) days of the Notice of Right to Sue letter sent on February 12, 2021.
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24 **FIRST CAUSE OF ACTION**
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26 **DISCRIMINATION BASED ON RACE**
27 **(Title VII, 42 U.S.C. §2000e-2 and WLAD, RCW 49.60.180)**
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29 29. Richmond realleges the preceding paragraphs as if fully set forth herein.
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1 30. Richmond faced race-based discrimination as a result of his reports of
2 the racist comments of an SCSO employee, Thurman. Richmond was made to endure
3 harassment, rumors, and comments such as “killing niggers,” and told that such
4 comments did not violate any SCSO policies. The harassment, rumors, and
5 comments were made by inferior, lateral, and most often superior SCSO employees
6 in violation of Title VII and the WLAD. In addition, the SCSO named Richmond as
7 the complainant to all SCSO employees in violation of its own IA policies and
8 refused to investigate Richmond’s discriminatory complaints.
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10 31. As a direct and proximate result of the SCSO’s intentional and blatant
11 racial discrimination, Richmond has sustained damages including economic loss,
12 mental anguish and emotional distress, and other damages in an amount to be proven
13 at trial. The conduct of the SCSO was outrageous and malicious, was intended to
14 injure Richmond, and was done with reckless indifference to Richmond’s protected
15 civil rights.
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17 **SECOND CAUSE OF ACTION**

18 **RETALIATION**

19 **(Title VII, 42 U.S.C. §2000e-3 and WLAD 49.60.030)**

20 32. Richmond realleges the preceding paragraphs as if fully set forth herein.
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1 33. After Richmond filed a complaint against Thurman, and immediately
2 after Thurman was terminated, Richmond was officially named to the entire SCSO
3 staff as the complaint in the Thurman IA investigation. Richmond has been, and
4 upon information and belief, still is harassed by SCSO leadership. The SCSO has
5 done nothing but permit this conduct to continue. The SCSO retaliated against
6 Richmond after his complaint against Thurman, by and through its current and
7 former employees by improperly passing him over for a promotion and continuing
8 to allow – even encouraging – a racist culture. SCSO allowed the behavior to
9 continue unchecked until Richmond was moved from a facility where his supervisors
10 openly belittled his complaints about race issues until he quit the SCSO because of
11 the hostile work environment.
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21 34. As a direct and proximate cause of the SCSO's retaliation, Richmond
22 has sustained damages consisting of economic loss, mental anguish and emotional
23 distress, and other damages in an amount to be proven at trial. The conduct of the
24 SCSO was outrageous and malicious, was intended to injure Richmond, and was
25 done with reckless indifference to Richmond's protected civil rights.
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THIRD CAUSE OF ACTION

**CONSTRUCTIVE DISCHARGE
(Washington Common Law)**

35. Richmond realleges the preceding paragraphs as if fully set forth herein.

36. Richmond faced retaliation and harassment for reporting Thurman's racist comments and initiating an IA investigation against Thurman. Richmond reported to the elected Sheriff, Knezovich, that he continued to face retaliation from others, including his direct chain of command (Lyons and Werner) because of the Thurman investigation. Knezovich and the County did nothing to protect Richmond. Instead, Richmond was moved from the Valley location where the hostile work environment persisted until Richmond had no choice but to quit.

37. As a direct and proximate cause of the SCSO's hostile work environment and failure to protect Richmond, he has suffered damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Richmond requests the following relief:

1 38. Damages, including economic damages, emotional distress damages,
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3 and mental anguish damages, and any other damages in an amount to be proven at
4 trial.
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6 39. Pre- and post-judgment interest.
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8 40. Costs and attorneys' fees pursuant to applicable statute or as equity
9 requires, including, but not limited to 42 U.S.C. § 2000e-5(k) and RCW 49.60.030.
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11 41. Punitive damages pursuant to 42 U.S.C. § 1981a.
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13 42. Damages for adverse tax consequences resulting from any damage
14 award, in an amount to be proven at trial.
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16 43. All other relief that this Court deems reasonable, necessary, and just
17 sounding in law or equity.
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21 **JURY DEMAND**
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23 Plaintiff requests trial by jury in this action.
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25 DATED this 30th day of March 2021.
26

27 BARDEN & BARDEN PLLC
28

29 s/ Heather C. Barden
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31 Heather C. Barden, WSBA #49316

Attorneys for Plaintiff